HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 18356 OF 1996
DATE: 25.1.2007

Between:

K. Nageswara Rao, S/o Surya Prakasha Rao

…Petitioner

AND

1. The A.P. State Electricity Board, represented by its Secretary, Vidyutsoudha, Somajiguda, and two others.

….Respondents

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HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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WRIT PETITION NO. 18356 OF 1996

ORAL ORDER:

Questioning the proceedings of the first respondent dated 16.12.1994, whereby the petitioner was imposed the punishment of reduction in time scale by three stages and the order of the appellate authority dated 11.9.1995 dismissing the appeal and confirming the order of the disciplinary authority, the present Writ Petition is filed.

The petitioner herein, who was working as Senior Line Inspector, was placed under suspension pending enquiry against him on 21.12.1992. He was issued a charge memo dated 21.4.1993 alleging misappropriation of board's funds to a tune of Rs. 1,36,730/- by manipulating the demand drafts and indulging in miscellaneous acts and thereby tarnishing the image of the Board. The enquiry officer held him not guilty of the charge. The disciplinary authority, vide proceedings dated 21.9.1994, took note of the findings of the enquiry officer that the petitioner while preparing the data sheet along with others had not taken due care to copy down the particulars available in S.C application registers, that it is not the duty of O&M staff to prepare data sheet enclosed to the work order application and that the petitioner had only assisted the Section Officer based on the request of the Additional Assistant Engineer and as there was no uniformity in payment of D.Ds deposited by the consumers, the petitioner ought to have brought it to the notice of the Section

Officer. While holding that there is no misappropriation in the Board funds and that the services of the petitioner were utilized in the office due to non-availability of sub-overseer in the section and that consumers had also confirmed univocally and unequivocally that they had purchased DDs, as advised by the staff and they denied to have paid the S.C., S.D., or S.L charges in the form of cash to any employees of the Board, it was held that there was no mistake or deliberate intention on the part of the petitioner. The disciplinary authority held that in view of the above, the charge held was not proved.

The disciplinary authority, however, noted that the enquiry officer had observed that the petitioner had failed to point out the inconsistencies in the statement prepared by him. Having carefully examined the enquiry report, with reference to the charges framed against the petitioner, his explanation to the charge sheet and the findings of the enquiry officer, the disciplinary authority came to the conclusion that the petitioner should be awarded the punishment of reduction in the time scale by three stages besides treating the period of suspension as suspension for his lapse of wrong entry in the DD amount in the work order application. The petitioner was asked to show cause as to why that the said punishment should not be imposed against him. The petitioner submitted his explanation stating that in the absence of the Sub-Engineer in the section he had followed the instructions of his superiors in rendering office assistance, with his little knowledge as a field worker he had prepared the returns and statements along with other O & M staff including ex-Casual Labour, that the services of the staff, who could read and write, were utilized for preparation of the statements, but he was the only person penalized though errors were done by others also and that

the mistake had crept in un-intentionally and that for no mistake or intention on his part he was penalized severely. The disciplinary authority, thereafter, passed the impugned order dated 16.12.1994 holding that it was the duty of the petitioner and other staff members to attend the works allotted to them and they could not take shelter on the plea that it was not their duty to prepare statements and that too after doing the said work. Accordingly, the punishment of reduction in time scale by three stages besides treating the period of suspension from 21.12.1992 to 2.10.1994, was imposed against the petitioner.

It is necessary to note that the charges leveled against the petitioner was of misappropriation of Board funds to the tune of Rs. 1,36,730/-. It is for this charge that an enquiry was held. The petitioner has not been charged of failing to point out the inconsistencies in the statement; While a minor penalty could have been imposed without conducting an enquiry, if the regulations of the Board enable it to do so, imposition of major penalty has necessarily to be preceded by issuance of a charge sheet, calling for the delinquent employee's explanation to allegations leveled in the charge sheet, a departmental enquiry being held to enquire into the charges and based on the findings of the enquiry officer further action to be taken including, if the rules so enable, to impose a major penalty. No major penalty can be imposed for a lapse, which does not part form of the charge sheet, and for which no enquiry was held in that regard. The impugned order of punishment is, accordingly, quashed. It is made clear that this order shall not preclude the respondents from taking action against the petitioner, for his failure to point out the inconsistencies in the statement prepared by him, in accordance with law.

The Writ Petition is allowed. However, in the circumstances

without costs.

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RAMESH RANGANATHAN
, J

Dated: 25.1.2007
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